IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 1920 OF 2005

Maharashtra Rajya Sahakari Krushi & Gramin Vakas Bank Ltd., & Ors. .. Petitioners.

vs.

Bhogawati Shetkari Sahakari Kukkut Palan Sanstha Ltd., .. Respondent.

Mr. A.B. Borkar for Petitioners.

Mr. S.S. Patwardhan for Respondent.

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Coram: J.N. PATEL, J.

Date: 26th July, 2006.

P.C.

. Heard.

2. This petition is filed by the appellant Bank impugning the order dated 14.7.2004 passed by the Member, Maharashtra State Co-operative Appellate Court, (Mumbai) Bench, Pune rejecting the application of the appellant for condonation of delay. The learned counsel appearing for the petitioner submitted that

though there was a substantial delay in preferring the appeal but it was due to administrative exigencies and delay on the part of the officials in taking a decision to prefer an appeal for which the petitioner Bank should not suffer. It is submitted that the auditors have pointed out the fact that the decision of the Judge, Co-operative Court deprives the Bank of its right to claim debt somewhere in the sum of Rs. 14 lacs and, therefore, it would be loss of public money if the appeal is not taken up and heard on merits.

3. The learned counsel appearing for the respondent submits that this was not the case of the petitioner before the appellate Court. On the other hand, the Co-operative Appellate Court has taken into consideration all the pros and cons and has correctly arrived at the conclusion that the petitioners have failed to place on record good and sufficient reasons for condoning the delay and rightly rejected the application. It is further submitted that not only the respondents have complied with the conditions of the award but even have not availed of the instalment and paid the full amount in lumpsum and, therefore, this Court need not interfere in the matter.

4. Having given my anxious consideration to the matter, this Court is of the opinion that the learned Member of the Co-operative Appellate Court Bench ought to have taken into consideration that the appellant in

the case is a co-operative Bank and if it is aggrieved by the judgment of the Co-operative Court relating to the award, it cannot be construed that it was deliberate on the part of the Bank to have taken such a long time in preferring the appeal i.e. approximately two years which will directly affect the coffers of the Bank which is dealing with public money. Therefore, this Court quashes and sets aside the impugned judgment dated 14.7.2004 but on condition that the petitioner Bank will have to pay costs for the delay in taking decision to prefer an appeal on the part of their officials or Board of Directors whosoever was instrumental in the decision making process.

5. This Court, therefore, called upon the counsel for the petitioner that the Court proposes to impose heavy costs so that it acts as a deterrent on the officials of the Bank and on Board of Directors who at the relevant time were in-charge of the affairs of the Bank who have taken so much time to decide whether an appeal was required to be preferred or not. The learned counsel appearing for the petitioner made a statement that considering the period of delay the petitioner Bank offers to pay a sum of Rs. 20,000/- towards costs. Though this Court felt that it was not sufficient to act as a deterrent but then a sum of Rs. 20,000/- is sufficient to compensate the respondent who for the present has nothing to lose. Therefore, this Court condones the delay on the condition that the

petitioner Bank would deposit a sum of Rs. 20,000/- in the appellate Court within a period of four weeks from the date of passing of this order towards costs which the respondent will be entitled to withdraw.

6. This Court makes it further clear that the Board of Directors of the Bank would recover the amount of costs from the officials or the directors who were in-charge of the affairs of the bank and instrumental in delaying the decision making process in preferring an appeal after fixing the liability on them. The petition stands disposed of accordingly with no order as to costs.

(J.N. Patel,J.)

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